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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/823,089 | 03/29/2001 | Dennis Sunga Fernandez | FERN-P001B | 9469 |
| 22877 | 7590 | 05/02/2005 | EXAMINER | |
| FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025 | | | VO, TUNG T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2613 | |

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,089

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung Vo

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-63 is/are pending in the application.
- 4a) Of the above claim(s) 12-15 and 22-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>09/27/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 37-42 in the reply filed on 01/31/05 is acknowledged.

Claims 11-15, 22-36 are canceled.

Claims 43-64 have been added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

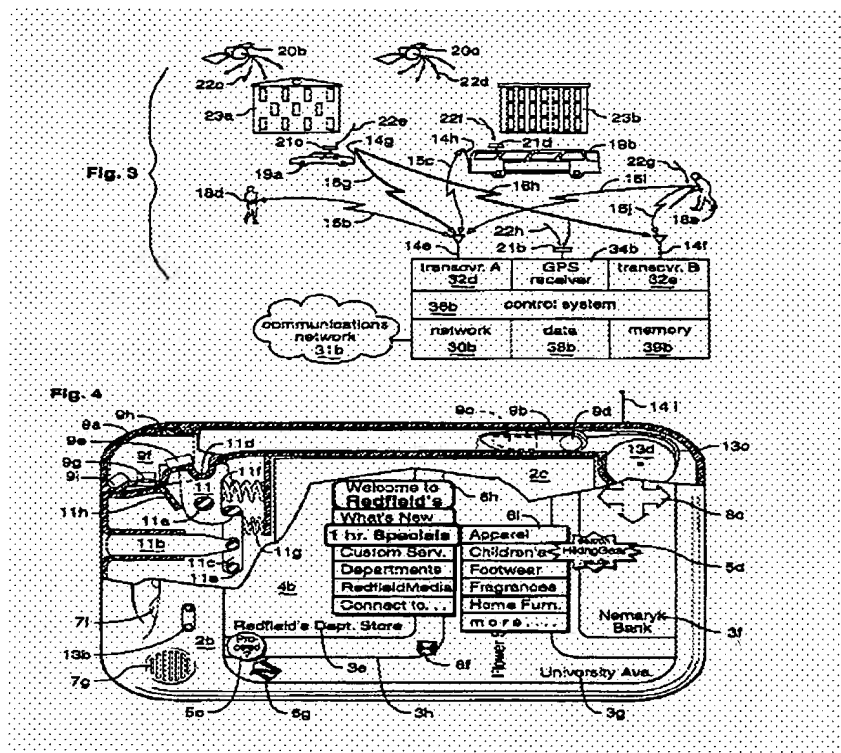
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 2613

3. Claims 37-43, 46, 50, 52-56, 59, and 63 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollenberg (US 6,091,956).

Re claims 37-43, 46, 50, 52-56, 59, and 63, Hollenberg discloses a cell phone for communicating with a networked controller (figs. 3 and 4) comprising :



a wireless communicator (14i of fig. 4) for communicating remotely with a networked controller (36b of fig. 3) via a network (20b or 20c of fig. 3);

a locator (34 of fig. 3) for providing a cell-phone location (2b of fig. 4, e.g. the situation information device provides a user a correct GPS information) to the networked controller via the wireless communicator (21b of fig. 3 and 14i of fig. 4);

a sensor (9g of fig. 4) for providing an image, audio, or video signal of a cell-phone user for transmission to the networked controller (36b of fig. 3) via the wireless communicator (20c of fig. 3);

the locator comprises a global positioning satellite (GPS) receiver (34b of fig. 3);

the sensor (9g of fig. 4) comprises a camera capable of recording the image, audio or video signal, and recognizing the cell-phone user voice or image;

the locator provides a location based temporarily on the cell-phone acceleration or signal triangulation, thereby enabling the cell-phone location to be provided during a wirelessly inaccessible down period (col. 8, lines 5-28);

a processor (2b of fig. 4) for running a transaction program for metering usage by the cell-phone user; the processor enables a local advertisement message (col. 16) that is pertinent to the cell-phone location to be presented to the cell-phone user; the processor runs a simulation of a cell-phone user movement or behavior (the camera capturing the user image); the wireless communicator communicates within a group of cell-phones chatting privately in multi-cast mode using an embedded watermark or digital certificate, thereby securing such group communication electronically (col. 17, lines 19-25).

the wireless communicator (14i of fig. 4) receives electronically an audio/visual signal from the network controller according to an extensible markup language (XML) tag or software agent associated with the audio/visual signal, thereby enabling advertisement for local goods or services to be included with the audio/visual signal based upon the cell-phone location (col. 16). See also col. 8, line 61-col. 10, line 42.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2613

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 44, 47-49, 57, 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Kennedy, III et al. (US 6,301,480).

Re claims 44, 47-49, 57, 60-62, Hollenberg further teaches situation information mapped in the context of spatial information, including appropriate to a geographical or other area, which would suggest the wireless communicator (34b of fig. 3) communicates within geographic range of transaction thereby enabling cell phone only during location, and Hollenberg further teaches a traffic congestion and emergency-situation information can be provided to approaching motorists and distant emergency decision makers, respectively, by those on the scene equipped with camera and communication capabilities. Digital photographs or video recordings of the scene could be quickly transmitted to those who evaluate emergency-situation information. In the case of vehicular traffic congestion, the vehicle's location, speed, and travel-direction data could be collected and redistributed as real-time, graphical, traffic-situation information. Thus, vehicle operators could avoid traffic situations that lay in their paths. Motorists encountering accidents could transmit digital photographs to the emergency-response dispatch center. Accident victims could also record traffic-accident details, drivers involved, drivers' identification, license-plate numbers, etc., as corroborating visual information. Therefore, the sensor (camera) would obviously provide surveillance signal from sensing a security condition of personal property coupled or nearby the cell-phone, thereby enabling remote surveillance of such property movement or safety.

It is noted that Hollenberg does not particularly teach the sensor provides a medical monitoring signal from sensing physically a biological condition of the cell phone user, thereby enabling health-care service according to a health-insurance coverage of the cellophane user; a vehicle diagnostic signal from sensing electronically a mechanical condition of an automobile coupled to the cell-phone, thereby enabling a neural network to diagnose the automobile adaptively as claimed.

However, Kennedy teaches mobile units (12 of fig. 1) may be hand-held or portable devices associated with any mobile items, such as cars, trucks, boats, barges, airplanes, cargo holders, persons, or other items that are movable or mobile. Mobile units (12 of fig. 1) may communicate with sensors to provide information on the location or status of mobile unit 12 or its associated mobile item. For example, a global positioning system (GPS) location receiver may be disposed at or near mobile unit (12 of fig. 1) to determine the location of an associated vehicle. Mobile unit (12 of fig. 1) may also receive information from alarms, odometers, speedometers, engine sensors, accelerometers, temperature gauges, humidity gauges, personal health sensors, or any other suitable sensors that generate information on the status of mobile unit (12 of fig. 1) or its associated mobile item so this suggests that the mobile unit (12 of fig. 1) provides a medical monitoring signal from sensing physically a biological condition of the cell phone user, thereby enabling health-care service according to a health-insurance coverage of the cellophane user; a vehicle diagnostic signal from sensing electronically a mechanical condition of an automobile coupled to the cell-phone, thereby enabling a neural network to diagnose the automobile adaptively.

Therefore, taking the combined teachings of Hollenberg and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the system of Hollenberg for the same purpose of communicating between the remote patient and central station fast and more accuracy. Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services and these services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

6. Claims 45 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Dennison et al (US 6,847,822 B1).

Re claims 45 and 58, Hollenberg does not particularly teach the wireless communicator receives a media stream or application program from the network controller according subject to a tax rate of the cell phone as claimed.

However, Dennison teaches the wireless communicator receives a media stream or application program from the network controller according subject to a tax rate of the cell phone (fig. 17, e.g. tax area 1, tax area 2...). Therefore, taking the teachings of Hollenberg and Dennison as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Dennison into the system of Hollenberg to define tax rate of the cell phone at the particular location. Doing so would permit the wireless system to exactly and precisely identify the exact geographic location of a mobile unit when a communication problem occurs.

7. Claims 51 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Tendler (US 5,598,460).

Re claims 51 and 64, Hollenberg does not particularly teach or disclose the image, audio or video signal is provided in a multi-media simulation program to represent the cell-phone user and location in three-dimensions, virtual-reality or holo-graphically as claimed.

However, Tendler teaches the image, audio or video signal is provided in a multi-media simulation program to represent the cell-phone user (voice of the user) and location in three-dimensions, virtual-reality (911 emergency) or holo-graphically. Therefore, taking the teachings of Tendler and Hollenberg as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Tendler into the cellphone system of Hollenberg for the same purpose of simulating the cell phone user (voice) and location. Doing so would allow the central station to easily determine where the vehicle/vessel or person at which the Vessel or person Location System and dialer module is located.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Purdy et al. (US 5,726,660) discloses personal data collection and reporting system.

Art Unit: 2613

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tung Vo
Primary Examiner
Art Unit 2613